

# Order

Michigan Supreme Court  
Lansing, Michigan

January 11, 2008

Clifford W. Taylor,  
Chief Justice

130460

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

RICHARD JAMES,  
Plaintiff,  
and

SAFECO INSURANCE CO.,  
Plaintiff-Appellee,

v

SC: 130460  
COA: 262805  
St. Clair CC: 03-002466-NZ

STATE FARM FIRE & CASUALTY CO.,  
Defendant/Cross-Defendant-  
Appellant,

and

DAVID GASOWSKI,  
Defendant/Cross-Plaintiff-  
Appellee,

and

MARIO SYLVESTRI and AUTO CLUB  
GROUP INSURANCE CO.,  
Defendants.

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On December 5, 2007, the Court heard oral argument on the application for leave to appeal the November 8, 2005 judgment of the Court of Appeals. On order of the Court, the application is again considered. MCR 7.302(G)(1). In lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and the judgment of the St. Clair Circuit Court granting defendant-appellee Gasowski and plaintiff-appellee Safeco Insurance Company summary disposition, and we REMAND this case to the St. Clair Circuit Court for further proceedings not inconsistent with this order. The "Release and Settlement Agreement" resolving the underlying action specifically contemplated litigating the identity of the driver of the jet-ski in this case. Therefore, the circuit court erred in granting summary disposition to Gasowski and Safeco against defendant-appellant State Farm Fire & Casualty Company on collateral estoppel grounds.



s0108

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 11, 2008

*Corbin R. Davis*

Clerk